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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,618	06/03/2002	Elchanan Bruckheimer	1934/13	3477
44596 7590 07/09/2008 DR. MARK M. FRIEDMAN C/O BILL POLKINGHORN - DISCOVERY DISPATCH 9003 FLORIN WAY UPPER MARLBORO, MD 20772				
EXAMINER				
LANG, AMY T				
ART UNIT		PAPER NUMBER		
3731				
NOTIFICATION DATE		DELIVERY MODE		
07/09/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Office Action Summary

Application No.

10/069,618

Applicant(s)

BRUCKHEIMER, ELCHANAN

Examiner

AMY T. LANG

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-27 is/are pending in the application.
4a) Of the above claim(s) 20-27 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 15-19 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/CIS)
4) ☐ Interview Summary (PTO-413)
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____
Paper No(s)/Mail Date _____

DETAILED ACTION

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.
2. The indicated allowability of claim 28 is withdrawn in view of the newly discovered reference(s) to Klumb et al. (US 6,488,700 B2). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

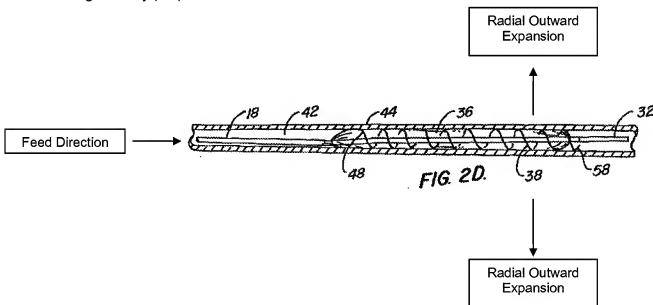
4. **Claims 15-19** are rejected under 35 U.S.C. 102(e) as being anticipated by Klumb et al. (US 6,488,700 B2).

With regard to **claim 15**, Klumb et al. (hereinafter Klumb) discloses an untethered intravascular device, stent-graft (38), deployed within the sheath lumen of catheter (8) (Figure 1). As shown in Figure 4A, the stent comprises a closed loop when deployed within a patient's vessel. When the stent is collapsed within the catheter, the closed loop is folded upon itself to comprise a low-profile delivery configuration (Figure

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1). Additionally, the stent is substantially straightened when in this delivery configuration (Figure 1). Klumb further teaches wherein the stent is comprised of Nitinol, so that it is biased to expand outward to an expanded, deployed configuration (column 3, lines 27-45); column 6, lines 23-24).

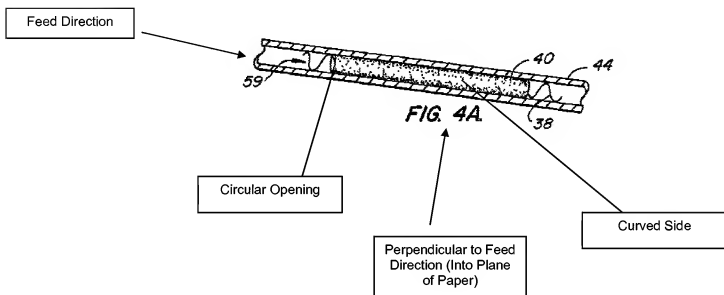
As shown below, the direction of the catheter lumen defines a feed direction. When the stent is deployed from the catheter, such that the stent is advanced beyond the catheter (column 3, lines 37-42), the stent radially expands outward. Therefore, this radial expansion causes the stent to deploy in a radial outward movement, which is generally perpendicular to the feed direction.



As shown in Figure 4A, when the stent is fully expanded within a patient's vessel, the stent loop is fully opened to provide a formation for retention against the vessel wall. It is also untethered in this expanded configuration and retained against the vessel wall.

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As shown below, the stent is substantially circular as viewed along the feed direction and partially curved in a direction perpendicular to the feed direction.



With regard to **claim 16**, as shown in Figure 4A, the stent-graft (38) is retained in the vessel only by contact of the stent-graft closed loop against the inner wall of the vessel.

With regard to **claims 17-19**, the stent is comprised of Nitinol, which clearly overlaps the instantly claimed non-penetrative (column 6, lines 23-24).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AMY T. LANG whose telephone number is (571)272-9057. The examiner can normally be reached on M-F 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on 571-272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

07/01/2008

/Amy T Lang/

Examiner, Art Unit 3731

/Todd E Manahan/

Supervisory Patent Examiner, Art Unit 3731